Supreme Court, U. S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

No. 79-166

UNBORN CHILD ROE, and all others similarly situated, by next friend Alan Ernest

Petitioners

vs.

THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Respondent

MOTION FOR LEAVE TO FILE A PETITION FOR A WRIT OF HABEAS CORPUS, AND PETITION FOR A WRIT OF HABEAS CORPUS

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THE DISTRICT OF COLUMBIA CIRCUIT

MOTION FOR LEAVE TO FILE A PETITION FOR A WRIT OF HABEAS CORPUS

The petitioners herein move the Court for leave to file the attached petition for a writ of habeas corpus, and pray that the motion will be granted, and that the respondents will be ordered to show cause why the relief requested therein should not be granted.

ALAN ERNEST
Counsel for Petitioners

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vs.

THE UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT
Respondent

PETITION FOR A WRIT OF HABEAS CORPUS

OPINIONS BELOW

The courts below issued no opinions.

JURISDICTION

The judgment being attacked was entered by the Court of Appeals on June 27, 1978. Infra A-2.

Jurisdiction is conferred on this Court by 28 USC § 2241 or 28 USC § 1651(a).

WHY RELIEF IS SOUGHT IN THIS COURT

Relief is sought in this Court, rather than a U.S. District Court, since this would appear to be the appropriate Court to issue a writ of habeas corpus to a U.S. Court of Appeals.

QUESTIONS PRESENTED

1. For the 34th time, the Supreme Court is petitioned to overrule its 1973 abortion decision, Roe v Wade, 410 US 113. The grounds are that the decision is based on false evidence, and millions of lives have been exterminated in violation of the United States Constitution, and positive criminal statutes; the evidence shows that many Roe v Wade killings are murder in the first degree.

2. The petitioners also demand the overruling of United States v Vuitch, 402 US 62, and the case upon which it was founded, Doe v General Hospital in the District of Columbia, 140 App DC 149, 434 F.2d 423. The grounds being that the construction of the D.C. abortion statute therein was contrary to the intent of the lawmaker and results in the criminal extermination of the victims, including mass murder in the first degree.

3. It is alleged that the Court of Appeals' conduct has illegally restrained the victims' right to life in violation of the United States Constitution, and positive criminal statutes, including murder in the first degree.

CONSTITUTIONAL PROVISIONS INVOLVED

FIFTH AMENDMENT: "No person shall . . . be deprived of life . . . without due process of law."

FOURTEENTH AMENDMENT: "nor shall any State

deprive any person of life . . . without due process of law."

DECLARATION OF INDEPENDENCE: "We hold these truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life ..."

"It is always safe to read the letter of the Constitution in the spirit of the Declaration of Independence." Gulf, Colo. & S.Fe Ry v Ellis, 165 US 150, 159-160(1897).

STATEMENT OF THE CASE

The Court of Appeals has twice effectively ruled that it could not stop killings regardless of any claim that the killings were criminal.

I

In both cases, a complaint filed in the U.S. District Court had alleged that Roe v Wade was based on false evidence, and millions of lives had been unconstitutionally exterminated.

An EXHIBIT A,[1] filed with the complaint in the District Court, showed that indispensable parts of Roe v Wade were based on false evidence. The evidence shows that the Supreme Court violated the very letter of the Constitution, as well as its spirit, and

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1. See the unprinted EXHIBIT A, PART I, EXAMINATION OF ROE v WADE, filed in the Clerk's Office in this case.

condemned to death millions of victims whom the United States Constitution endeavors to preserve. There does not appear to be any defense that will not amount to claim that the Supreme Court is a law unto itself, and there is no limit to its power.

II

The first case (presented here solely for background), Ernest v Carter, Pet. Cert. No. 77-184, denied 54 L ed 2d 134 , arose as follows:

About September 17, 1976, the Complaint was filed in the U.S. District Court for the District of Columbia, Civil Action No. 76-1744. The complaint demanded that the District Court enjoin Roe v Wade in the District of Columbia, on the grounds that Roe v Wade was based on false evidence and unborn lives were being unconstitutionally exterminated, and order the U.S. Attorney, (hereinafter "government") to enforce 22 D.C. Code 201, the felony abortion statute.

About October 7, 1976, the unborn children filed a motion for summary judgment, and that same day, the government filed a motion to dismiss. The government neither replied to the motion for summary judgment, nor attempted to prove any of the charges against Roe v Wade to be wrong.

Rather, the government argued that "The Complaint Fails To State A Claim Upon Which Relief Can Be Granted" on the grounds that the district court was bound by Roe v

Wade regardless of any claim that it was wrongly decided: "The nation's highest court whose decisions bind all lower courts has ruled." "This Court is bound by it." Government Memorandum in Support of Motion to Dismiss 3.

The government also argued that the trial court lacked "Subject Matter Jurisdiction Over The Complaint" on the grounds that only "the pregnant mother" has standing to maintain an action for the unborn child. Government Memorandum in Support of Motion to Dismiss 2. Thus, only the person who intends to kill the child would be able to maintain an action to protect the child's life.

The U.S. District Court never held a hearing on the motion for summary judgment, or on jurisdiction, or for any reason. On October 19, 1976, U.S. District Judge Aubrey E. Robinson, Jr., dismissed the case with prejudice.

"ORDER"

"Upon consideration of defendants Edward H. Levi and Earl J. Silbert motion to dismiss the complaint and the memorandum in support thereof, and the court being fully advised in the premises, it is by the Court, this 19th day of October, 1976,

"ORDERED that the complaint be and the same is hereby dismissed with prejudice for lack of subject matter jurisdiction and failure to a claim upon which relief can be granted."

/S/ Aubrey E. Robinson Jr.
United States District Judge

On appeal to the U.S. Court of Appeals for the District of Columbia Circuit, No. 76-2014, the charge was reiterated that "the Supreme Court of the United States has unconstitutionally exterminated millions of lives by false evidence," Appellant's Brief at 4, and likewise demanded that the Court of Appeals enjoin Roe v Wade in the District of Columbia. Id., at 7.

In a motion for summary affirmance, the government argued that "Roe v Wade, we submit, is dispositive of the matter. The District Court and this Court are bound by it." Motion Affirm 5. The government did not attempt to prove the charges against Roe v Wade to be wrong.

On May 17, 1977, the Court of Appeals granted the motion for summary affirmance without explanation, and without any hearing:

"BEFORE: Bazelon, Chief Judge; Leventhal, Circuit Judge.

"ORDER"

"On Consideration of appellees' motion for summary affirmance, the opposition thereto, and of the appellant's motion to expedite appeal, it is

"ORDERED by the Court that the aforesaid motion for summary affirmance is granted and the order of the District Court on appeal herein is affirmed, and it is

"FURTHER ORDERED by the Court that the motion to expedite appeal is denied as moot."

"Per Curiam"

The Petition for Rehearing and Suggestion for Rehearing En Banc noted that the effect of the court's summary affirmance was that "granting the truth of the allegation that the Supreme Court of the United States has unconstitutionally exterminated millions of lives by false evidence to which it had deliberately adhered," the Court of Appeals "is 'bound by' this Roe v Wade decision." "What sentient mind can contemplate a court's summary affirmance on such doctrines and not find itself seeking parallels to the Nazi legal system under Hitler." Petition for Rehearing 2.

This petition for Rehearing and Suggestion for Rehearing En Banc was summarily denied without any attempt by any of the judges to prove the charges against Roe v Wade to be wrong:

"BEFORE: Bazelon, Chief Judge, Wright, McGowan, Tamm Leventhal, Robinson, MacKinnon, Robb and Wilkey, Circuit Judges.

"ORDER"

"On consideration of appellant's suggestion for rehearing en banc, and no judge of the Court in regular active service having called for a vote thereon, it is

"ORDERED by the Court, en banc, that appellant's aforesaid suggestion is denied."

"Per Curiam"

The U.S. Supreme Court summarily denied the petition for certiorari, No. 77-184, to review that decision by the Court of Appeals at 54 L Ed 2d 134, without attempting to

prove the charge that the Supreme Court had "unconstitutionally exterminated millions of lives by false evidence" to be wrong. Pet. Cert. at 5.

III

The present case arose as follows.

About December 12, 1977, a complaint was filed in the U.S. District Court for the District of Columbia, Civil Action No. 77-2115. The complaint demanded that the district court suspend Roe v Wade, and order the U.S. Attorney for the District of Columbia to enforce the D.C. abortion statute 22 D.C. Code 201.

The complaint alleged that Roe v Wade was based on false evidence, and unborn victims were being exterminated in violation of the Constitution and 22 D.C. Code 201.

The complaint also asked the district court to suspend United States v Vuitch,402 US 62, and order 22 D.C. Code 201 to be enforced with a construction in accordance with the evidence submitted to the court. This evidence [2] showed that, without examination of the medical-legal history of the terms of 22 D.C. Code 201, or regard to a single rule of statutory construction, or any examination whatever to see if the victims would be deprived of the right to life protected by the U.S. Constitution, the

2. See unprinted EXHIBIT A, PART II, EXAMINATION OF UNITED STATES v VUITCH, filed in the Clerk's Office in this case.

Supreme Court construed the D.C. abortion statute to result in abortion on demand by another name. The evidence showed that this result was contrary to the intent of the lawmaker, and that those killings violated that felony statute.

As with the previous case, evidence, supra n.1, was submitted to the district court to show that Roe v Wade was based on false evidence and millions of lives had been unconstitutionally exterminated. None of the courts below pretended to show this evidence to be wrong. Rather, the courts below effectively ruled that they were bound by Roe v Wade regardless of any claim that it was wrongly decided.

About January 23, 1978, the U.S. Attorney for the District of Columbia(hereinafter "government") filed a motion to dismiss. The government never attempted to prove any of the charges against Roe v Wade to be wrong. Rather, the government argued that the complaint failed to state a claim on which relief could be granted on the grounds that the district court was bound by Roe v Wade "regardless of any claim that it was wrongly decided." Government Memorandum Of Points and Authorities in Support of Motion to Dismiss 4.

The government also argued that the district court lacked subject matter jurisdiction on the grounds that only "the pregnant mother" has standing to maintain an action. Government Memorandum of Points and

Authorities in Support of Motion to Dismiss 2. Thus, only the person who intends to kill the child would be able to maintain an action to defend the child's constitutionally protected right to life.

The government also claimed that the previous case, supra, barred this case on the doctrine of res judicata, despite the fact that one of the parties in the case was not a party to the earlier case, and that the plaintiff class of unborn children was not even in existence when the earlier decision was made.

About January 25, 1978, there was a hearing on a motion for a preliminary injunction to suspend Roe v Wade in the District of Columbia. Petitioner's counsel appeared and went over the false evidence piece by piece and showed how Roe v Wade was founded upon it. And the government continued to argue that the district court was bound by Roe v Wade regardless of any claim that it was wrongly decided.

On February 16, 1978, the district court entered its order dismissing the case with prejudice for failure to state a claim upon which relief could be granted, citing "Roe v Wade." Infra A1. Consequently, the district court apparently held that it was bound by Roe v Wade "regardless of any claim that it was wrongly decided."

The district court also asserted that "plaintiffs have not established their standing to sue." Infra A1. Thus, the court apparently held that only the person who

intends to kill the child would have standing to defend the child's life.

The district court also asserted that the plaintiffs were "barred by a previous decision of this Court," citing the case, supra. Infra A1. Absent was any explanation as to how this could bar a plaintiff who was not a party to the first suit, nor plaintiffs who were not even in existence when the first case was decided.

On appeal, the unborn children presented the Court of Appeals with a MEMORANDUM OF LAW ON THE POTENTIAL CRIMINAL LIABILITY OF FEDERAL JUDGES WHO CLOSE THEIR EYES AND ENFORCE, PERMIT OR OMIT TO STOP ROE v WADE KILLINGS.[3] Appellants Brief 1-22. This memorandum showed that the court of appeals had a clear legal duty to stop the Roe v Wade killings until the U.S. Supreme Court fully and fairly hears the questions about the legality of the killings. It further showed that the Court of Appeals could be guilty of complicity in criminal killing even if its only conduct was to omit to stop the killings.

On June 17, 1978, the Court of Appeals summarily affirmed the district court's order, sua sponte, without any hearing, or any motions or briefs from the government. Infra A2. The Court of Appeals made no attempt to prove the charges against Roe v

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3. See unprinted EXHIBIT A, PART III, filed in the Clerk's office in this case.

Wade, supra n.1, or United States v Vuitch, supra n.2, to be wrong.

On July 21, 1978, the Court of Appeals denied the Petition for Rehearing and Suggestion for Rehearing En Banc, infra A3, which further set out the statutory jurisdiction to suspend a Supreme Court decision on new evidence showing the decision to be wrong and victims being deprived of life in violation of the Constitution and laws of the United States. The petition reiterated that the Court of Appeals could be guilty of complicity in criminal extermination if it refused to stop the killings pending a full and fair hearing in the Supreme Court on the legality of the killings.

The Supreme Court denied the petition for a writ of certiorari to review this decision of the Court of Appeals, No. 78-427, 58 L Ed 2d 324(1978); and also denied the motion for leave to file a mandamus, No. 78-428, 58 L Ed 2d 339(1978). Both these petitions charged, "The Supreme Court of the United States is charged with criminal falsehood and criminal extermination" and charged the Court of Appeals with "complicity in criminal falsehood and criminal extermination." Neither court denied the charges.

IV

The Court of Appeals has now twice effectively used the arguments of the Nazi judges at Nuremberg that they could not be held accountable for "extermination" because they were bound by the "decrees" of the

"supreme judge" of Germany. Infra p. 20. As the mandamus case case against the Court of Appeals analyzed the ruling:

> It is established that in ruling on a motion to dismiss for lack of standing, or for failure to state a claim upon which relief can be granted, the district court must accept as true all material allegations in the complaint. Warth v Seldin, 45 L Ed 2d 343, 356(1975); Kugler v Helfant, 44 L Ed 2d 15, 25 (1975). The Complaint, at 2, 4 & 6, alleged that "the Supreme Court's abortion decision, Roe v Wade, 410 US 113 (1973) is illegal, null and void on the grounds that it is based on false evidence and millions of lives have been illegally exterminated"; the complaint further alleged that the Court's "illegal, homicidal conduct is premeditated" and thus amounted to "crime."
>
> Consequently, the courts below effectively ruled that, granting the truth of the allegation that the Supreme Court had perpetrated the crime of millions of premeditated illegal homicides by false evidence, the federal courts are bound by Roe v Wade regardless of any claim that it was wrongly decided, and the unborn can not defend their constitutional right to life in a federal court.

And the Court of Appeals made this ruling, sua sponte, without any hearing whatever; without any attempt whatever to prove the charges against Roe v Wade, supra n. 1, or United States v Vuitch, supra n.2, to be wrong; in the very face of the evidence, supra n.3, showing that the decision made the Court of Appeals guilty of complicity in criminal extermination.

IV

The two cases in the Court of Appeals, supra pp. 4-12, each demanded it to over-

rule Doe v General Hospital in the District of Columbia, 140 App DC 149, 434 F 2d 423, which was a basis of United States v Vuitch, supra n.2.

In 1970, the Court of Appeals construed the D.C abortion statute, 22 D.C. Code 201, to effectively amount to abortion on demand by another name. The evidence, supra n.2, was submitted to the Court of Appeals to show that these exterminations were in violation of the D.C. abortion statute and the United States Constituion; and that the Court of Appeals had asserted to legalize these criminal killings without any investigation whatever to determine if the killings would violate either the statute or the U.S. Constitution. The evidence, supra n.2, shows the construction to be fraudulent and results in the criminal destruction of the victims.

By its summary affirmances, supra, the Court of Appeals twice deliberately adhered to that fraudulent decision.

And evidence discovered subsequent to the two cases in the Court of Appeals, infra n.4, shows that in Doe v General Hospital in District of Columbia, supra, the Court of Appeals asserted to legalize killings that are murder in the first degree, without any investigation whatever of the law of murder. It is a naked decree. "The dagger of the assassin was concealed beneath the robe of the jurist." Infra p.20. As already noted, Court of Appeals, en banc, has twice adhered to that decision.

V

Subsequent to the actions in the Court of Appeals, supra, it was discovered that many of the killings that Roe v Wade asserted to legalize were murder in 1868, when the Fourteenth Amendment was adopted; absent an amendment to the Constitution, the killings are still murder.[4]

The evidence thus shows that the Court of Appeals naked asserted to legalize murder, without any investigation whatever into the law of murder. The Court of Appeals twice refused to stop Roe v Wade killings in cases that charged the killings were based on false evidence. The Court of Appeals knew that its decision would result in mass extermination. And the Court of Appeals refused to stop the killings in the face of evidence showing that the refusal to stop the killings would amount to complicity in criminal extermination.

WHEREFORE, based upon the examination of Roe v Wade, supra n.1; the examination of United States v Vuitch, supra n.2; the evidence showing many Roe v Wade killings to be murder, supra n.4; and the evidence showing that the mere omission to stop the killings, pending a full and fair hearing in the U.S. Supreme Court amounts to complicity in criminal extermination, including mass murder in the first degree,- the

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4. See Unprinted EXHIBIT A, PART IV, MEMORANDUM OF LAW ON ROE v WADE KILLINGS AS MURDER IN THE FIRST DEGREE, filed in the Clerk's office in this case.

petitioners herein charge the United States Court of Appeals for the District of Columbia Circuit with complicity in criminal fraud and criminal extermination, including mass murder in the first degree.

REASONS FOR GRANTING THE WRIT

The evidence shows that the judges of the United States have combined to overthrow the United States Constitution, and establish a government by Judiciary, founded on fraud and murder.

I

It can not be contested that America was founded upon the principle that government derives its "just powers from the consent of the governed." This was adopted by the Continental Congress in the Declaration of Independence. While the Declaration may not be law in itself, it provides definitions by which the law is to be understood. Gulf, Colo. and S.Fe Ry v Ellis, 165 US 150, 159-160(1896).

The first sentence of the U.S. Constitution sets out this mother principle of democracies: "All legislative powers herein granted shall be vested in a Congress of the United States." Congress is elected by the people at regular elections, and thus, its laws are derived from the consent of the governed.

The Constitution itself was adopted by the people in convention. The Constitution is thus derived from the consent of the gov-

erned. And Article V of the Constitution provides the means for amending the Constitution, which likewise makes amendments be derived from the consent of the governed.

II

Under the U.S. Constitution's Article III, the federal judiciary is not elected by the people, and holds office during good behavior, in effect, for life.

The Constitution gives the judges no power to make laws. The lawmaking power, as admitted by the Supreme Court, is the power to make new rules for the future. Ross v Oregon, 227 US 150, 161 (1913).

While the judicial power does not admit to lawmaking, it has been decided that it does admit to determining the meaning of statutes, and the U.S. Constitution. Marbury v Madison, 1 Cranch 137(1803). But the Supreme Court has no power to make new laws under the guise of construction. Pillsbury v United Engineering, 342 US 197, 199.

The rules used by the courts to construe the meaning of the laws are founded in the principle that laws are derived from the consent of the governed. The purpose of construction is to determine the intent of the lawmaker.

Chief Justice John Marshall recognized this "consent of the governed" as the foundation of the rules that the courts must apply in construing the Constitution.

FIRST: The Constitution must be given the meaning "contemplated by its framers."

Ogden v Sanders, 12 Wheat. 212, 332(1827) (dissenting opinion).

SECOND: "(I)n no doubtful case would it pronounce a legislative act to be contrary to constitution." Dartmouth College v Woodward, 4 Wheat. 518, 625(1819).

The foundation under these two rules is too compelling to admit any doubt as to the truth of the two rules.

Since the legitimacy of the Constitution is derived from the consent of the governed, any true construction must give the Constitution the meaning intended by the people who framed and adopted it. The central question is: To what have the people consented. Any policy of construction that disregards the consent of the governed can not be lawful. And to what the people have consented is susceptible to proof by evidence which can be independently verified. Thus the security of a written Constitution.

The second rule is a necessary corollary of the first. The right of the people to govern themselves being so paramount, it takes careful and clear evidence to warrant a conclusion that, in the U.S. Constituiton, the people intended to withdraw from themselves the power to make their own laws on that subject. If, after review of the words of the Constitution, and the historical evidence concerning the meaning of those words, a reasonable doubt remains as to whether the makers of the Constitution intended to prohibit such a law, then

the law must stand as valid. The opinions of unelected officials holding office for life are not to be substituted for the judgments of the peoples' elected representatives unless the conflict between the law and the Constitution is clear.

The decisions of Chief Justice John Marshall are submitted as a faithful execution of these two principles of construction.

III

In his Farewell Address, Washington warned that the customary means of overthrowing constitutions was by usurpation:

> If in the opinion of the People, the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. 35 The Writings of George Washington 229(Fitzpatrick ed. 1949).

IV

The world does not want for examples of democratic constitutions overthrown by the process of usurpation.

Prior to World War II, the German Constitution was thought to be a model of democracy and freedom, "the most liberal and democratic document of its kind the twentieth century had seen," which declared "Political power emanates from the people." W.L. Shirer, The Rise and Fall of the Third Reich

88-89(Fawcett Crest paperback 1969). Hitler came to power "within the terms of the constitution." Id., at 255.

Thereafter, by usurpation, Hitler became the "supreme judge" of Germany. The Justice Case, 3 Trials of War Criminals before the Nuernberg Military Tribunals 1011 (1951). The decrees of this "supreme judge" were obeyed as law. The "supreme judge" presumed to decree murder to be lawful. And this "supreme judge" was unquestioningly obeyed by the Nazi judges.

At Nuremberg, the Nazi judges claimed the defense that they could not be held accountable for their crimes against humanity, including "extermination," because they were bound by the "decrees" of the "supreme judge" of Germany. The Justice Case, supra, 983-85,1010-1014. The Nuremberg court rejected that defense with the observation,"The dagger of the assassin was concealed beneath the robe of the jurist." The Justice Case, supra, at 985.

The whole constitutional system had been overthrown by usurpation.

V

The evidence shows that the judiciary of the United States has set upon a course of usurpation astonishingly similar to that traveled by the Nazi judicial system.

The judges of the United States came to power within the terms of the Constitution. The evidence shows that the judges routinely, as a matter of policy, defy the consent

of the governed, and effectively assert their will to be law. See, R. Berger, Government by Judiciary: The Transformation of the Fourteenth Amendment(1977). This book sets out evidence to show that the Supreme Court has generally construed the Fourteenth Amendment in defiance of the intent of its framers. Berger concludes, "Such conduct impels one to conclude that the Justices are become a law unto themselves." Id., at 408.

Furthermore, the evidence shows that the Supreme Court uses false evidence to defy the intent of the framers, and defiantly adheres to this false evidence year after year in the very teeth of challenges to the truthfulness of the Court's evidence. Supra n. 1.

The evidence shows that the Supreme Court has presumed to decree murder to be a constitutional right. Supra n.4.

The evidence shows that when it comes to constitutional questions, truth has nothing to do with thefederal courts: the will of the judge has become the law.

And the evidence shows that the Supreme Court is being unquestioningly obeyed by the federal judiciary. All the judges below have effectively ruled that they are bound by Roe v Wade regardless of any claim that it was wrongly decided. The federal judiciary is willing to violate the express words of the U.S. Constitution, and positive criminal statutes, including mass murder in the first degree, without asking even a single ques-

tion, much less demanding any answers.

The evidence shows that in the courts of the United States, the will of the judge has replaced the consent of the governed as the basis of law. By any definition, this is the overthrow of the United States Constitution.

VI

The procedures used by the Supreme Court to effect and maintain the Roe v Wade killings deserve special attention.

The Nuremberg court, in outlining the case against the Nazi judicial system, noted that many victims were executed after trials which "did not approach even a semblance of fair trial":

> In many instances they were denied the right to introduce evidence, to be confronted by witnesses against them, or to present witnesses in their own behalf. They were... denied the right of counsel of their own choice, and occasionally denied the aid of any counsel. The Justice Case, supra, 1046.

The evidence, supra n.3 at pp. 13-18, shows that the Supreme Court has, in broad form, used these very procedures to effect and maintain the Roe v Wade killings: The Supreme Court itself produced evidence to condemn some victims to death; the Court condemned other victims to death without any evidence; the Court has repeatedly refused to allow its evidence to be cross-examined; the Court has repeatedly refused to allow counsel to represent the victims; and the Court has repeatedly refused to allow evi-

dence to be presented on behalf of the victims to establish their right to life.

When judges presume to decree murder to be a constitutional right, and refuse to even hear the facts, it can not be pretended that it is any longer the government of the United States,- any government of Constitution and laws.

Through Roe v Wade, the Supreme Court has asserted a second method for the government to condemn persons to death.

The first, set out in the Constitution, is by conviction by an impartial jury for violation of express laws enacted by the people and applicable to all in the state; with right of representation of counsel; and right to confront the accusing evidence and cross-examine it; and right to present evidence on behalf of the accused; and right to be acquitted unless found guilty beyond a reasonable doubt; and provision to stop execution if new evidence is discovered.

The second, set out in Roe v Wade, is for a Tribunal holding office for life(without assistance of counsel to defend the victims) to rule the victims out of the human race as inferiors, in violation of the very letter and spirit of the Constitution.

The evidence, supra n.4, shows that the Supreme Court decreed murder to be a constitutional right, and there does not appear to be any defense that will not amount to a claim that the Supreme Court is above the law,- as Hitler was to Germany so the Supreme Court is to America.

If it be true, as Chief Justice John Marshall once held in Marbury v Madison, 1 Cranch 137, 163, 176, 178, that "government of laws, and not of men," founded in a "written constitution" deriving its just power from the "supreme" "authority" of "the people" is "the greatest improvement on political institutions," then the overthrow of that government of laws by lawless federal judges may be the most heinous crime in the history of political institutions.

Furthermore, the Declaration of Independence is perverted by the judges to effectively read that "all Men are created equal-equal,- except those created to die for the convenience of others."

> "Alas for you, lawyers ... hypocrites! You are like tombs covered with whitewash; they look well from the outside, but inside they are full of dead men's bones and all kinds of filth. So it is with you: outside you look like honest men, but inside you are brim-full of hypocrisy and crime." Matthew 23:27-29(New English Bible)

CONCLUSION

If it be true, as Jefferson once wrote, that America is an "experiment" to establish that "man may be governed by reason and truth," and that "truth and reason will eternally prevail, however in times and places they may be overbourne for a while by violence," then sooner or later all those judges who authorized or refused to stop the Roe v Wade killings can expect to be called

to account by the criminal law.

As Chief Justice John Marshall wrote, for federal judges to "swear" to discharge their duties "agreeably to the constitution," and then "close their eyes on the constitution" and "condemn to death those victims whom the constitution endeavors to preserve," is worse than "solemn mockery," it is a "crime." Marbury v Madison, supra, at 179-180. The criminal law will not permit the "dagger of the assassin" to be "concealed beneath to robe of the jurist."

Based upon the evidence, supra nns.1,2 & 4, and the procedures, supra, the petitioners charge the Supreme Court with criminal falsehood and criminal extermination, including mass murder in the first degree.

If the United States were being ruled over by a Tribunal of murderers holding office for life, and being blindly obeyed by all federal judges who violate the express words of the Constitution and positive criminal statutes, including mass murder in the first degree, without question, then surely it would be a fraud without parallel in the legal history of the world, and tantamount to the overthrow of the United States Constitution.

Alan Ernest
Counsel for Petitioners

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DAVID GAETANO, et al., Plaintiffs,	)	
v.	)	Civil Action No. 77-2115
EARL J. SILBERT, Defendant	)	Filed FEB 16 1978 James E. Davey, Clerk

ORDER

The Court has considered plaintiffs' motion for a preliminary injunction, the defendant's motion to dismiss, and the other pleadings filed by counsel on both sides (including plaintiffs' motion for class certification). The Court has also heard oral argument. The plaintiffs have not established their standing to sue, have failed to state a claim upon which relief can be granted, and are barred by a previous decision in this Court. O'Shea v. Littleton, 414 U.S. 488(1973); Roe v. Wade, 410 U.S. 113(1973); Unborn Child Roe v. Gerald Ford, et al., No.76-1744 (D.D.C. 1976). Since the Court will dismiss the complaint, there is no occasion to rule specifically on the motion for perliminary or permanent injunction. It is, therefore, this 16th day of February 1978,

ORDERED: That defendant's motion to dismiss is GRANTED, and that this action is hereby dismissed with prejudice.

/s/ Louis F. Oberdorfer
United States District Judge

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 78-1250 September Term 1977

David Gaetano
and
Alan Ernest, Next Friend of
Unborn Child Roe and all others similarly situated

Filed Jun 27, 1978
George A Fisher
Clerk

Appellants

v. Civil Action 77-2115

Earl J. Silbert, United States Attorney for the District of Columbia

BEFORE: MacKinnon and Wilkey, Circuit Judges

O R D E R

On consideration of appellants' motion to certify question to the U.S. Supreme Court, or, in the alternative, motion for injunction pending appeal, it is

ORDERED by the Court that appellants' aforesaid motion is denied and, on consideration of the record herein, it is

FURTHER ORDERED by the Court, sua sponte, that the order of the District Court on appeal herein is summarily affirmed.

For the Court:
George A. Fisher, Clerk
By: Robert A. Bonner /s/
Chief Deputy Clerk

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 78-1250 September Term 1977

David Gaetano
and
Alan Ernest, Next Friend of
Unborn Child Roe and All Others Similarly Situated

Appellants

Filed Jul 21, 1978
George A Fisher
Clerk

Civil Action 77-2115

v.

Earl J. Silbert, United States Attorney for the District of Columbia

BEFORE: Wright, Chief Judge; Bazelon, McGowan, Tamm Leventhal, Robinson, MacKinnon, Robb and Wilkey, Circuit Judges.

O R D E R

Appellants' suggestion for rehearing en banc having been transmitted to the full court, and no judge in regular active service having requested a vote thereon, it is

ORDERED by the Court en banc that appellants aforesaid suggestion is denied.

Per Curiam

For the Court:
George A. Fisher, Clerk
By: Robert A. Bonner /s/
Robert A. Bonner
Chief Deputy Clerk